

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Hassan Serhan, Michael Slivka and Thomas M. DiMauro  
Application No.: 10/675,580 Group Art Unit: 3732  
Filed: September 30, 2003 Examiner: Not Yet Assigned  
Confirmation No.: 9958

Title: VERTEBRAL FUSION DEVICE AND METHOD FOR USING SAME



CERTIFICATE OF MAILING OR TRANSMISSION	
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2/24/04 Date	<i>Rachel Meehan</i> Signature
RACHEL MEEHAN Typed or printed name of person signing certificate	

INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This Information Disclosure Statement is submitted:

- ☐ under 37 CFR 1.129(a), or  
(First/Second submission after Final Rejection)
- ☒ under 37 CFR 1.97(b), or  
(Within any one of the following time periods: three months of filing national application (other than a CPA) or date of entry of the national stage in an international application; or before the mailing date of a first office action on the merits in a non-provisional application, including a CPA, or a Request for Continued Examination).
- ☐ under 37 CFR 1.97(c) together with either:
- ☐ a Statement under 37 CFR 1.97(e), as checked below, or
- ☐ a \$180.00 fee under 37 CFR 1.17(p), or  
(After the 37 CFR 1.97(b) time period, but before final action or notice of allowance, whichever occurs first)
- ☐ under 37 CFR 1.97(d) together with:
- ☐ a Statement under 37 CFR 1.97(e), as checked below, and
- ☐ a \$180.00 fee under 37 CFR 1.17(p), or  
(Filed after final action or notice of allowance, whichever occurs first, but on or before payment of the issue fee)
- ☐ under 37 CFR 1.97(i):  
Applicant requests that the IDS and cited reference(s) be placed in the application filewrapper.  
(Filed after payment of issue fee)

Statement Under 37 CFR 1.97(e)

- ☐ Each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement; or
- ☐ No item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned, after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in 37 CFR 1.56(c) more than three months prior to the filing of this Information Disclosure Statement.

Statement Under 37 CFR 1.704(d) (Patent Term Adjustment)

Applies to original applications (other than design) filed on or after May 29, 2000

- ☐ Each item of information contained in the Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart application and this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the Information Disclosure Statement.
- ☒ Enclosed herewith is form PTO-1449:
- ☒ Copies of the cited references (AR-AV) are enclosed.
- ☒ Since this application was filed after June 30, 2003, copies of issued U.S. patents and published U.S. applications are not required and are not being provided.
- ☐ Copies of the cited references are enclosed except those entered in prior application, U.S. Application No. [ ], to which priority under 35 U.S.C. 120 is claimed. [The earlier application contains copies of the cited references.]
- ☐ The listed references were cited in the enclosed International Search Report in a counterpart foreign application.
- ☐ The "concise explanation" requirement (non-English references) for reference(s) [ ] under 37 CFR 1.98(a)(3) is satisfied by:
- ☐ the explanation provided on the attached sheet.
- ☐ the explanation provided in the Specification.
- ☐ submission of the enclosed International Search Report.
- ☐ submission of the enclosed English-language version of a foreign Search Report and/or foreign Office Action.
- ☐ the enclosed English language abstract.

☐ Applicant requests that the following non-published pending applications be considered:

Examiner's  
Initials

\_\_\_\_\_ U.S. Patent Application No. [ ], by [inventor(s)], filed [ ], Docket No.: [ ]

\_\_\_\_\_ U.S. Patent Application No. [ ], by [inventor(s)], filed [ ], Docket No.: [ ]

\_\_\_\_\_ U.S. Patent Application No. [ ], by [inventor(s)], filed [ ], Docket No.: [ ]

\_\_\_\_\_  
Examiner

\_\_\_\_\_  
Date

☐ A copy of each above-cited application, including the current claims, is enclosed.

☐ A copy of each above-cited application, including the current claims, is enclosed, except those entered in prior application, U.S. Application No. [ ], to which priority under 35 U.S.C. 120 is claimed.

The Examiner is requested to return a copy of the above list of pending applications indicating which references were considered with the next office communication.

It is requested that the information disclosed herein be made of record in this application.

Method of payment:

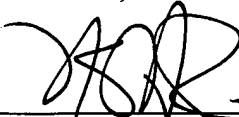
☐ A check for the fee noted above is enclosed, or the fee has been included in the check with the accompanying Reply. A copy of this Statement is enclosed.

☐ Please charge Deposit Account 08-0380 in the amount of \$[ ]. A copy of this Statement is enclosed.

☒ Please charge any deficiency in fees and credit any overpayment to Deposit Account 08-0380.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By 

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Dated: 2/23/04

PTO-1449 REPRODUCED

ATTORNEY DOCKET NO.  
3518.1010-000APPLICATION NO.  
10/675,580INFORMATION DISCLOSURE CITATION  
IN AN APPLICATION

February 11, 2004

(Use several sheets if necessary)

APPLICANT  
Hassan Serhan, *et al.*FILING DATE  
September 30, 2003CONFIRMATION NO.  
9958GROUP  
3732

## U.S. PATENT DOCUMENTS

EXAM- INER INI- TIAL	REF. NO.	DOCUMENT NUMBER	ISSUE DATE / PUBLICATION DATE	NAME
	AA	5,702,449	30-DEC-97	McKay
	AB	5,865,845	02-FEB-99	Thalgott
	AC	5,968,098	19-OCT-99	Winslow
	AD	5,824,084	20-OCT-98	Muschler
	AE	US 2003/0009225	09-JAN-03	Khandkar <i>et al.</i>
	AF	6,248,131 B1	19-JUN-01	Felt <i>et al.</i>
	AG	6,187,048 B1	13-FEB-01	Milner <i>et al.</i>
	AH	5,562,736	08-OCT-96	Ray <i>et al.</i>
	AI	4,772,287	20-SEP-88	Ray <i>et al.</i>
	AJ	6,332,894 B1	25-DEC-01	Stalcup <i>et al.</i>
	AK	US 2003/0028251 A1	06-FEB-03	Mathews
	AA2	5,888,220	30-MAR-99	Felt <i>et al.</i>
	AB2	5,133,755	28-JUL-92	Brekke
	AC2	6,592,625 B2	15-JUL-03	Cauthen
	AD2	US 2001/0039453 A1	08-NOV-01	Gresser <i>et al.</i>
	AE2	5,443,514	22-AUG-95	Steffee
	AF2	6,171,610 B1	09-JAN-01	Vacanti <i>et al.</i>
	AG2	6,368,351 B1	09-APR-02	Glenn <i>et al.</i>
	AH2	5,679,723	21-OCT-97	Cooper <i>et al.</i>

## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

AR	Kandziora, Frank, <i>et al.</i> , "Biomechanical Analysis of Biodegradable Interbody Fusion Cages Augmented With Poly(Propylene Glycol-co-Fumaric Acid), <i>SPINE</i> , 27(15): 1644-1651 (2002).
AS	Haas, Norbert P., New Products From AO Development [online], May 2002 [retrieved on 2003-10-14]. Retrieved from the Internet <URL: <a href="http://www.ao.asif.ch/development/pdf_tk_news_02.pdf">http://www.ao.asif.ch/development/pdf_tk_news_02.pdf</a> >.

EXAMINER

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## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

AT	Cortek, Inc.: Product Line [online], 2001-2002 [retrieved on 2003-10-14]. Retrieved from the Internet <URL: <a href="http://www.cortekinc.com/product.html">http://www.cortekinc.com/product.html</a> >.
AU	OSTEOSET® DBM Pellets (Important Medical Information) [online], November 2002 [retrieved on 2003-10-14]. Retrieved from the Internet <URL: <a href="http://www.wmt.com/Literature">http://www.wmt.com/Literature</a> >.
AV	FDA Approves Cambridge Scientific, Inc.'s Orthopedic WISORB™ Malleolar Screw [online], July 30, 2002 [retrieved on 2003-10-14]. Retrieved from the Internet <URL: <a href="http://www.cambridgescientificinc.com">http://www.cambridgescientificinc.com</a> >.

EXAMINER

DATE CONSIDERED